

### REMARKS

Claims 1-17 and 20-60 are pending, with claims 1, 33, 35, 37, 38, 40, 46, 47, and 58 being independent. Applicants have amended claims 1, 33, 35, 37, 38, 40, and 46, and added new claims 47-60. The Examiner has withdrawn claims 3, 5-7, 9-10, 13-16, 25-30, 36, 39, and 42. Support for the amendments and new claims can be found in the specification as filed at, for example, page 1, lines 20-25, page 7, lines 9-23, and page 8, lines 3-29. Applicants request that the double patenting rejections be held in abeyance until the claims are otherwise held allowable.

The Examiner has rejected claims 1, 8, 11-12, 17, 20-23, 31, 33-35, 37-38, 40-41, and 43-46 as anticipated by U.S. Patent No. 6,068,629 (Haissaguerre).

Each of independent claims 1, 33, 35, 37, 38, and 40, as amended, recites the flexible portion enclosed by a portion of the head such that the head is free to rotate about the flexible portion. Independent claim 46, as amended, recites that the pivoting means is enclosed by a portion of the conducting means such that the conducting means is free to rotate about the pivoting means.

Haissaguerre fails to disclose a flexible portion enclosed by a portion of a head such that the head is free to rotate about the flexible portion or pivoting means enclosed by a portion of the conducting means such that the conducting means is free to rotate about the pivoting means. Rather, Haissaguerre discloses support arms 142, 144 and actuation wire or mandrel 154 (which the Examiner equates with the claimed flexible portion). Haissaguerre fails to disclose or suggest that the support arms 142, 144 or the mandrel 154 are enclosed by a portion of the thinned section 152 (which the Examiner equates with the claimed head) such that the thinned section 152 is free to rotate about any of the alleged flexible portions. For at least these reasons, claims 1, 8, 11-12, 17, 20-23, 31, 33-35, 37-38, 40-41, and 43-46 are patentable over Haissaguerre.

The Examiner rejected claims 2 and 4, both of which depend from claim 1, as obvious over Haissaguerre, claim 24, which ultimately depends from claim 1, as obvious over Haissaguerre in view of U.S. Patent No. 6,290,699 to Hall, and claim 32, which depends from claim 1, as obvious over Haissaguerre in view of U.S. Patent No. 5,125,928 to Parins. For at

least the same reasons discussed above with respect to independent claim 1, and because neither Hall nor Parins overcomes the deficiencies in Haissaguerre discussed above, applicants submit that claims 2 and 4 are patentable over Haissaguerre, claim 24 is patentable over Haissaguerre in view of Hall, and claim 32 is patentable over Haissaguerre in view of Parins.

New claim 47 recites that the non-conductive surface is sized to limit how far the electrically conductive surface can advance into tissue such that the tissue effect is limited to one or more of debriding, smoothing, and sealing the tissue, and new claim 58 recites that the head is configured and shaped such that the head is free to pivot about the flexible portion such that during use the electrode is maintained in contact with a tissue surface as the head moves across the tissue surface. None of the asserted references discloses or suggests such features.

For at least the reasons discussed above, applicants respectfully request reconsideration and withdrawal of the rejections, and submit that all claims are in condition for allowance.

Applicants do not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, applicants may not have addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by applicants to any of the Examiner's positions does not constitute a concession of the Examiner's positions. The fact that applicants' comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. Applicants submit that all of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

The fee in the amount of \$130 for the Petition for One-month Extension of Time Fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization.

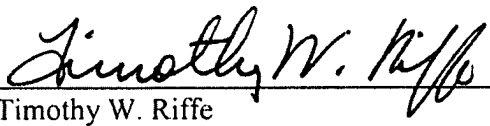
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Please apply any other charges or credits due in connection with the filing of this  
Amendment or otherwise to Deposit Account No. 06-1050.

Respectfully submitted,

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